

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

11 BMO HARRIS BANK, N.A.,) Case No.: 1:24-cv-1062 JLT HBK
12 Plaintiff,)
13 v.) ORDER ADOPTING FINDINGS AND
14 SUNSHINE TRUCKING LLC, et al.,) RECOMMENDATIONS, GRANTING
15 Defendants.) PLAINTIFF'S MOTION FOR DEFAULT
) JUDGMENT IN PART, AND DIRECTING THE
) CLERK OF COURT TO CLOSE THE CASE
)
) (Docs. 12, 17)
)

17 BMO Harris Bank N.A. seeks to hold Sunshine Trucking LLC and Kamal Mann liable for
18 breach of contract related to a Loan and Security Agreement. (*See generally* Doc. 1.) After
19 Defendants failed to answer, the Court entered default against Defendants. (Doc. 10.) Plaintiff
20 now seeks default judgment against Defendants. (Doc. 12.)

21 The magistrate judge determined the Court has diversity jurisdiction over the claims
22 presented and personal jurisdiction over Defendants. (Doc. 17 at 4-6.) The magistrate judge also
23 found Plaintiff complied with the service requirements under Rule 4 of the Federal Rules of Civil
24 Procedure. (*Id.* at 6-7.) Examining the sufficiency of the complaint, the magistrate judge found
25 Plaintiff alleged sufficient facts to state a claim for breach of contract against Defendants and
26 “submits evidence in support of its damages claim.” (*Id.* at 8.) The magistrate judge determined
27 the factors identified by the Ninth Circuit in *Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th Cir.
28 1986) weighed in favor of default judgment and recommended the Court grant the motion, with

1 damages awarded in the amount of \$173,682.31, plus post-judgment interest. (*Id.* at 7-10.)

2 The magistrate judge found Plaintiff is also entitled to an award of attorney fees and costs.
3 (Doc. 17 at 10-12.) The magistrate judge found the requested hourly rate of \$325 was reasonable
4 based upon the experience of counsel. (*Id.* at 12.) In addition, the magistrate judge observed:
5 “According to the declaration of Attorney Ito and the corresponding invoices, Attorney Ito
6 expended a total of 8.30 hours of work and billed the Plaintiff \$2,697.50 for attorney fees in
7 relation to this matter through October 17, 2024.” (*Id.* at 11.) The magistrate judge noted Mr. Ito
8 also anticipated that it would “take at least 3 hours at a rate of \$325” to complete the motion for
9 default judgment, excluding any appearance at a hearing on the motion. (*Id.*) The magistrate
10 judge recommended the anticipated time not be awarded, because there was “no evidence to
11 support this estimate.” (*Id.*) Finally, the magistrate judge also found costs in the amount of
12 \$695.28—which included the court filing fee and service of process—were reasonable and
13 recommended the Court award the requested amount. (*Id.* at 12.)

14 The Court served the Findings and Recommendations on Plaintiff, which served the
15 document on Defendants and filed proof of service. (Doc. 18.) The Court notified the parties that
16 any objections were due within 14 days. (Doc. 15 at 15.) The Court advised the parties that the
17 “failure to file objections within the specified time may result in the waiver of rights on appeal.”
18 (*Id.* at 13, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014).) No objections
19 were filed, and the deadline for doing so has passed.

20 According to 28 U.S.C. § 636(b)(1), this Court performed a *de novo* review of this case.
21 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations
22 are supported by the record and proper analysis. Thus, the Court **ORDERS**:

- 23 1. The Findings and Recommendations issued January 27, 2025 (Doc. 17) are
24 **ADOPTED** in full.
- 25 2. Plaintiff’s motion for default judgment (Doc. 12) is **GRANTED** in part.
- 26 3. Plaintiff is **AWARDED** monetary damages in the amount of **\$173,682.31**.
- 27 4. Plaintiff is **AWARDED** interest at the contracted rate of \$77.55 for each day after
28 October 15, 2024.

- 1 5. Plaintiff's request for fees and costs is **GRANTED**, in the modified amount of
- 2 \$2,697.50 in attorney fees and \$695.28 in costs, for a total of **\$3,392.78**.
- 3 6. Plaintiff is **AWARDED** possession of the subject vehicle, VIN
- 4 3AKJHHDR5PSUH9960, and Defendants **SHALL** return and/or permit Plaintiff
- 5 to take possession of the vehicle.
- 6 7. Upon recovery and sale of the vehicle in a commercially reasonable manner,
- 7 Plaintiff **SHALL** credit the net sale proceeds of the vehicle toward the monetary
- 8 judgment awarded herein.
- 9 8. The Clerk of Court is directed to enter judgment in favor of Plaintiff and against
- 10 Defendants, and to close this case.

IT IS SO ORDERED.

Dated: **February 14, 2025**

Jennifer L. Thurston
UNITED STATES DISTRICT JUDGE